IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FOURTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11992 of 2004

Between:

Galla Nooku Naidu S/o Kannaiah
Teruvupalli Village, Yellamanchili Mandal Visakhapatnam District.

..... PETITIONER

AND

1 Sri Kesava Swamivar Temple rep.by its Manager/Single Member Trustee, Tiruvupalli, Yellamanchili Mandal Visakhapatnam District
2 The Asst. Commissioner of Endowments, Turnol Choulty, Visakhapatnam District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction particularly a writ in the nature of Mandamus directing the respondents to continue the petitioner in land Ac.2.02 cents in Sy.No.290, Tiruvupalli Village, yellamanchilli, Mandal, Visakhapatnam District belongs to the 1st Respondent, declaring the action of the respondents as arbitrary, illegal and violative of Article 14,21, and 300-A of the Constitution of India Besides violation of Mandatory provisions of AP. Charitable and Hindu Religious Institution and Endowments Act, 1987 with all consequential and attendant benefits.

Counsel for the Petitioner: MR.B.M.PATRO, Adovcate

Counsel for the Respondent No.: SMT.N.INDRANI, SC for Temple

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the notice issued by the first respondent dated 24.04.2004, under which the petitioner was asked to handover possession of the lands within thirty days from the date of receipt of the notice and pay the rentals due till the date of vacating the land, failing which, action would be taken under Section 83(4) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act') treating him as an encroacher.

2. According to the petitioner, he is a landless poor person and he does not own any other land except Ac.0.35 cents of land owned by him apart from the land of the first respondent in an extent of Ac.2.02 cents with reference to which, he as well as his ancestors continued as tenants. Further, as he is a landless poor person in terms of the provisions of Section 82 of the Act read with the Rules framed in G.O.Ms.No.379 Revenue (Endowments I) dated 11.03.2003, he is entitled for the benefit of the said provisions either for sale or for concessional rent to be paid to the first respondent –Temple and he is also not liable for eviction. In fact, he made a representation to the second respondent – Assistant Commissioner of Endowments on 20.05.2004 seeking a declaration that he is a landless poor person. The said representation is still pending and no orders have been passed. In view of the pendency of the application, the first respondent is not entitled to evict the petitioner. Hence, the present writ petition.

3. Heard learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents.

4. Admittedly, the petitioner is claiming to be the tenant in respect of Ac.2.02

cents in Survey No.290 of Teruvupalli village, Yellamanchili Mandal, Visakhapatnam District, with reference to which, the first respondent also issued a notice under Rule 5(1) in Form – I of Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Land Rules, 2003 (for short 'the Rules'), directing the petitioner to handover possession of the land within 30 days. Apart from the land in question, the petitioner claims that he owns only Ac.0.35 cents of land, which he got from his father. Therefore, according to the petitioner, the extent owned by him is below the limit prescribed under the provisions of the Act and the Rules and therefore, he is not liable to be evicted from the land in question.

5. In view of the admitted facts as stated above as to the extent of land owned by the petitioner as owner as well as tenant and as the application of the petitioner for determination that he is a landless poor person, is pending before the second respondent – Assistant Commissioner of Endowments, the first respondent is not entitled to evict the petitioner, pending adjudication by the second respondent.

6. The writ petition is accordingly disposed of at the admission stage, directing the second respondent to dispose of the representation of the petitioner dated 20.05.2004, after hearing the petitioner, expeditiously, preferably within a period of three months. Pending adjudication by the second respondent, the first respondent is directed not to evict the petitioner from the schedule land.

14.07.2004

Note: Furnish CC in 3 days

B/o

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To

1 Sri Kesava Swamivar Temple rep.by its Manager/Single Member Trustee, Tiruvupalli, Yellamanchili Mandal Visakhapatnam District
2 The Asst. Commissioner of Endowments, Turnol Choulty, Visakhapatnam District

3 Two CCs to G.P. for Endowments, High Court of A.P. Buildings, Hyderabad(OUT)

4 Two CD Copies